

**TITLE 23. WATERS  
DIVISION 2. DEPARTMENT OF WATER RESOURCES  
CHAPTER 2.7 MODEL WATER EFFICIENT LANDSCAPE ORDINANCE**

**NOTICE OF PROPOSED RULEMAKING**

**NOTICE IS HEREBY GIVEN** that the Department of Water Resources (hereafter Department) updated the Model Water Efficient Landscape Ordinance (hereafter Model Ordinance) necessary to specify requirements for the efficient use of water as authorized by Sections 65595 and 65596 of the "Water Conservation in Landscaping Act" (amended by Assembly Bill 1881 – Chapter 559, Statutes of 2006; approved by Governor Arnold Schwarzenegger on September 28, 2006).

The text of the proposed regulations reflect improvements for landscape and irrigation design plans, irrigation technologies, and water management for achievable water savings, which will reduce water demand and waste.

The regulations to be updated can be found in California Code of Regulations (hereafter CCR), Title 23, commencing with Section 490. The text of the proposed regulations indicated by ~~strikeout~~ and underline are available on-line or by request from the contact persons designated in this notice.

**PROPOSED REGULATORY ACTION**

The Department proposes to amend and add to Sections 490-495 in Chapter 2.7 of Division 2 of Title 23 of the California Code of Regulations. These sections pertain to a Model Ordinance that would apply to all local agencies, including chartered cities and counties, who have not adopted the Model Ordinance or other ordinance that is at least as effective as the Model Ordinance.

**PUBLIC HEARING**

The Department will conduct two public hearings on the proposed Model Ordinance. The first public hearing is scheduled on March 25, 2008 for 9:00 AM at the Auditorium of the Resources Agency Building, 1416 9th Street Sacramento, CA 95814. A second public hearing is scheduled on March 27, 2008 for 9:00 AM at Inland Empire Utilities Agency, 6075 Kimball Avenue, Chino, CA 91708.

Any person wishing to make a statement may do so at these public hearings. The Department will receive both oral and written comments. It is requested, but not required, that persons making oral comments at the hearings submit a written copy of their testimony at the public hearings.

## **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on March 27, 2008. The Department will consider only comments received by that time at the office listed below. Submit comments to:

Written comments may be delivered to:

Attention: Judy Colvin  
Department of Water Resources  
Office of Water Use Efficiency and Transfers  
901 P Street, Room 313A  
Sacramento, CA 95814

or mailed to:

Attention: Judy Colvin  
Department of Water Resources  
Office of Water Use Efficiency and Transfers  
P.O. Box 942836  
Sacramento, CA 94236-0001

or e-mailed to: [mweo@water.ca.gov](mailto:mweo@water.ca.gov)

## **AUTHORITY AND REFERENCE**

The Department of Water Resources is proposing this action pursuant to the authority vested by Section 65595 of the Government Code, and to implement, interpret or make specific sections 65591, 65592, 65593, 65594, 65595, 65596 of the Government Code, the Department of Water Resources is considering changes to Division 2 of Title 23 of the California Code of Regulations.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The "Water Conservation in Landscaping Act" resulted in the State of California Department of Water Resources' adoption of the Model Water Efficient Landscape Ordinance (Model Ordinance) in June 1992. While the Model Ordinance has been in effect since the 1990s, California's human population and water demands continue to increase challenging the state's water supplies. Having recognized the significant impact of irrigating outdoor landscapes has on water supplies and wanting to further reduce waste of water, the California Legislature has revisited the Model Ordinance.

In September 2004, the Legislature enacted AB 2717, Chapter 682, Statutes of 2004, to direct the California Urban Water Conservation Council (CUWCC) to convene a stakeholder workgroup, entitled "Landscape Task Force," composed of public and private agencies, and associations to develop, evaluate and recommend proposals for improving the efficiency of water use in new and existing urban irrigated landscapes in California. The Landscape Task Force released their final report of 43 recommendations, entitled "Water Smart Landscapes for California," on December 1, 2005 that will achieve the goal of greater landscape water use efficiency statewide. This report included recommendations for updating the Model Water Efficient Landscape Ordinance.

Assembly Bill 1881 – Chapter 559, Statutes of 2006, enacted into law on September 28, 2006, improves and strengthens the "Water Conservation in Landscaping Act." A series of actions to be implemented by the Department, State Energy Resources Conservation Development Commission (CEC), local agencies including charter cities and counties, are targeted at improving the efficiency of water use in new and certain existing irrigated urban landscapes. The law recognizes that the efficient use of water in landscape design, installation, maintenance, and management has a role in reducing water use and waste.

Most importantly, the Department is directed to amend and add to the Model Water Efficient Landscape Ordinance. The Department shall adopt the updated Model Ordinance by January 1, 2009. Section 490 of the updated Model Ordinance clarifies the legislative intent and describes the purpose.

The effect of the updated Model Ordinance is to provide guidance to local agencies in developing and adopting their own landscape ordinances. All local agencies, including charter cities or charter counties, are required to adopt the updated Model Ordinance or adopt its own local landscape ordinance that is at least as effective by January 1, 2010. If a local agency does not take any action, the updated Model Ordinance adopted by the Department shall take effect as of January 1, 2010 and have the same force and effect, as if adopted by the local agency. Local agencies who do not adopt the updated Model Ordinance must notify the Department as to whether it is subject to the law by January 31, 2010; if not, the local agency is required to submit a copy of its adopted landscape ordinance to the Department.

## **MATERIAL INCORPORATED BY REFERENCE**

1. *"Certified Landscape Irrigation Auditor Training Manual"* Irrigation Association (IA), September 2004.
2. *"Landscape Plant Salt Tolerance Selection Guide for Recycled Water Irrigation"* University of California Agriculture and Natural Resources (UC-ANR), 2005.

3. *"A Guide to Estimating Irrigation Needs of Landscape Plantings in California: The Landscape Coefficient Method and WUCOLS III"*  
University of California Cooperative Extension, State of California  
Department of Water Resources, United States Bureau of Reclamation  
(U.S.B.R.), August 2000.

## **DISCLOSURES REGARDING THE PROPOSED ACTION**

The Department has made the following initial determinations:

### **Mandate on local agencies and school districts: Yes.**

By imposing requirements on local agencies in connection with the adoption of water efficient landscape ordinances, the bill would impose a state-mandated local program. Local agencies are required to adopt the Model Ordinance or other water efficient landscape ordinance that is at least as effective as the Model Ordinance by January 1, 2010.

The Department of Water Resources has made a preliminary determination that no reimbursement is required because currently local agencies collect fees for permits sufficient to pay the cost associated with adopting and implementing the Model Ordinance.

### **Cost or savings to any State agency: None.**

### **Costs Imposed on Any Local Agency or School District that is required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.**

No reimbursement is required because local agencies or school districts have the authority to levy service charges, fees, or assessments sufficient to pay for the costs associated with adopting and implementing the Model Ordinance.

### **Other nondiscretionary cost or savings imposed upon local agencies: None.**

### **Cost or savings in federal funding to the State: None.**

### **Cost impact on private persons or directly affected businesses: None.**

The initial cost to developers of designing and installing water efficient landscapes would be the same. The completed project would result in overall lower water costs.

**Assessment of effect on jobs/businesses: None.**

The Model Ordinance will not:

- Eliminate jobs within California;
- Eliminate existing businesses within California;
- Affect the expansion of businesses currently doing business within California.

The Model Ordinance will:

- Create jobs within California; and
- Upon adoption, have a positive economic effect on small businesses, such as nurseries and landscape maintenance contractors, by creating additional opportunities and professionalism to the industry.

**Effect of small business: None.**

The cost to developers of designing and installing water efficient landscapes is same as installing landscapes that would not have to conform to the Model Ordinance or is minimally higher. The developments in landscape irrigation and maintenance that have significantly improved irrigation efficiency include advances in sprinkler Technology and irrigation controllers since old ordinance come into effect in 1992. Small businesses are striving to adopt these technologies irrespective of the adoption of the ordinance.

Adoption of this Model Ordinance will probably have a positive economic effect on small landscape businesses, such as nurseries, creating additional opportunities for landscape professionals

**Significant, statewide adverse economic impact directly effecting business, including the ability of California businesses to compete with businesses in other states: No**

**Significant effect on housing cost: None.**

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be

as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

## **CONTACT PERSON**

Inquiry concerning the substance of the proposed action, as well as requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based may be directed to:

Attention: Judy Colvin  
Office of Water Use Efficiency and Transfers  
California Department of Water Resources  
P.O. Box 942836  
Sacramento, CA 94236-0001  
(916) 651- 9847

or email: [mweo@water.ca.gov](mailto:mweo@water.ca.gov)

The back-up contact person is:

Julie Saare-Edmonds  
Office of Water Use Efficiency and Transfers  
California Department of Water Resources  
P.O. Box 942836  
Sacramento, CA 94236-0001  
(916) 651- 9676

or email: [mweo@water.ca.gov](mailto:mweo@water.ca.gov)

## **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the updated Model Ordinance (regulations), and the initial statement of reasons. Copies may be obtained by contacting Judy Colvin at the address and telephone number listed above under "Contact Person."

## **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After the written comment period or the holding the hearing, if requested, and considering all timely and relevant comments received, the Department may adopt the proposed regulations (Model Ordinance) substantially as described in this notice. If the Departments makes modifications which are sufficiently related to the originally proposed text, it will make the modified text, with changes clearly indicated, available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified text of the updated Model Ordinance to the attention of Judy Colvin at the address indicated above under "Contact Person." The Department will accept written comments on the modified text of the updated Model Ordinance for 15 days after the date on which they are made available to the public.

## **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Judy Colvin at the address listed above under "Contact Person."

## **AVAILABILITY OF DOCUMENTS ON DEPARTMENT WEBSITE**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons and the text of the regulation in underline and strikeout can be accessed through the Department's website at

<http://www.owue.water.ca.gov/landscape/ord/ord.cfm>.

**END**